(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Writ Petition No. 388/02.

PETITIONER : Ranjeet, aged 30 years S/o Shri Gaukaran Ahirwar, Scheduled Caste Sarpanch of Gram Panchayat, Pauni, Tahsil Pandariya, Distt. Kawardha (C.G.).

V E R S U S

RESPONDENTS : (1) State of Chhattisgarh Through : The Secretary, Panchayat Mantralaya, D.K.S. Building, Raipur (C.G.).

(2) Collector, Kawardha, Distt. Kawardha (C.G.).

P.R. No. 2682/02
Presented by Shri C.D. Sharma
dated 28.11.02

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA :

(29)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P No. 388 / सन् 2003

.....विरुद्ध.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DB: Hon'ble Justice K. H. N. Kuranga, C.J.
& Hon'ble Justice L. C. Bhadoo, J.
15/10/2003

Petitioner by Shri M. D. Sharma, Advocate.

Respondents by Shri Sunil Sinha, Additional Advocate General.

Heard on I.A.No. 3358/2003.

By this interlocutory application the petitioner seeks to amend the petition because after filing of this writ petition the Collector, Kawardha has passed the final order dated 25.11.2002, which is null and void. The application is allowed. Necessary amendment be incorporated in the memo of petition.

By this writ petition under Articles 226/227 of the Constitution of India the petitioners have challenged the constitutional validity and the vires of Section 36 (1)(m) of the Chhattisgarh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (for short 'the Adhiniyam) which lays down that no person shall be eligible to be an office-bearer of the Panchayat who has more than two living children one of whom is born on or after 26th day of January, 2001. The challenge to the above clause does not survive in view of the law laid down by the Hon'ble Apex Court in the case of **Javed and others Vs. State of Haryana and others reported in**

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2003 AIR SCW 3892 and also in view of the order passed by this Court in the case of Yashwant Kumar Sahu Vs. State of Chhattisgarh and another passed in Writ Petition No. 463 of 2002. 60 12.09.03

The second challenge of the petitioner is against the final order passed by the Collector, Kawardha on 25th November, 2002. The petitioner has admitted that the third child was born on 1.6.2001 and a certificate to this effect, issued by the village-Kotwar has been filed by the petitioner as Annexure P/3. As per the provision of Section 36 (1)(m) no person shall be eligible to be an office-bearer of the Panchayat who has more than two living children one of whom is born on or after 26th day of January, 2001. Since the third child to the petitioner was born on 1.6.2001 therefore in view of the above provision the petitioner has incurred disqualification for being an office bearer of the Panchayat.

In view of the above there is no force in the petition of the petitioner, the same is liable to be dismissed and it is dismissed. However, the petitioner shall be at liberty to file an appeal before the Director of Panchayat against the order dated 25th November, 2002 by which they have been declared disqualified to continue as office

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bearer of the Village Panchayat Pauni, Tahsil- Pandariya, District-Kawardha. The petitioner will be entitled to the benefit of the limitation for the time spent by him in litigating before this Court in this writ proceeding.

The parties are entitled for certified copy of this order.

Sd/-
Chief Justice

Sd/-
L.C. Bhadoo
Judge

17/10 17/10

[पीछे देखिये